

ONEOK RESOURCES COMPANY,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 96-53-A
ACTING MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	January 7, 1997

This is an appeal from a February 23, 1996, decision of the Acting Muskogee Area Director, Bureau of Indian Affairs, finding that oil and Gas Lease No. 601-863 (48033), Corine Cooper, Choctaw NB-647, had expired for failure to produce oil and/or gas in paying quantities.

In the pre-docketing notice for this appeal, the Board asked the Area Director to furnish the names and addresses of the Indian landowners at the time he submitted the administrative record. The Area Director furnished an address for Corine Cooper, the sole landowner.

In the notice of docketing, the Board ordered appellant to serve its notice of appeal on Cooper and certify to the Board that it had done so.

Appellant did not file a certificate of service. Accordingly, this appeal is subject to dismissal for failure to prosecute.

Setting aside this problem for the moment, the Board finds that appellant also cannot prevail on the merits. In its notice of appeal, appellant made no allegation that the Area Director's decision was in error. Instead, it asked only that the "decision be rescinded pending the additional work that we wish to perform in order to bring the well back on line." Appellant did not file a brief.

Appellant was informed in the notice of docketing that it bore the burden of proving error in the Area Director's decision. This requirement has also been described in numerous Board decisions. E.g., McCarthy v. Muskogee Area Director, 30 IBIA 152 (1996); Larry Boyer Land & Cattle Co. v. Portland Area Director, 28 IBIA 135 (1995), and cases cited therein. Appellant has failed to carry its burden in this case.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's February 23, 1996, decision is affirmed.

Anita Vogt
Administrative Judge

Kathryn A. Lynn
Chief Administrative Judge